IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.403 OF 2007
IN
CRIMINAL APPEAL NO.333 OF 2007

Kamleshwar Siddam Hugar .. Applicant
v/s.
The State of Maharashtra and another .. Respondents

Mr. A.P. Mundargi, senior counsel for Mr. Niranjan Mundargi for the appellant.
Ms. S.V. Gajre, Addl. Public Prosecuror for the State.

CORAM : J. H. BHATIA, J.
DATED : 9TH APRIL, 2007

P.C.

Heard Mr. A.P. Mundargi, learned senior counsel for the appellant and Ms. S.V. Gajre, learned A.P.P.

2. The applicant, who is original accused No.1, was convicted for the offences punishable under sections 286, 304(II) I.P.C. and under section 5 of the Explosive Substances Act. For the offence under section 304(II) I.P.C., he was awarded R.I. for five years and to pay a fine of Rs.1,00,000/-. For the offence under section 5 of the Explosive Substances Act, he was awarded R.I. for six years and to pay a fine of Rs.50,000/-. Out of the total compensation amount, an amount of Rs.1,25,000/- was to be paid as compensation to Amrut Malshetty. The applicant has preferred an appeal against the conviction and sentence. The appeal is admitted.

3. By this application, the applicant seeks to be released on bail pending final hearing and disposal of the appeal.

4. Mr. Mundargi contends that the explosives were stored in a room for the purpose of blasting in the quarry because the applicant was running crusher of stones. According to him, section 304(II) I.P.C. and section 5 of the Explosive Substances Act cannot be applicable to the facts of this case. This fact may consider at the time of final hearing. Mr. Mundargi makes a statement that the fine amount is already deposited by the applicant before the trial court and he has also no objection to make the payment of Rs.1,25,000/- to P.W.6, Amrut Malshetty, whose wife and three children were killed in that incident. Admittedly, the applicant was on bail during the trial and there is no allegation of misuse of the bail.

5. In view of the aforesaid circumstances, pending the final hearing and disposal of the appeal, the applicant is hereby granted bail on same terms and conditions as before the trial court subject to his furnishing fresh bail bond and depositing the fine amount if not already deposited. The concession about payment of compensation to P.W.6 Amrut Malshetty will not be treated as admission of the offence.

(J.H. BHATIA, J.)